



SCHOOL OF LAW

Civil Justice Clinic

Interdisciplinary Environmental Clinic

July 14, 2014

U.S. Environmental Protection Agency

1301 Constitution Avenue NW

Washington, D.C. 20460

Uploaded to www.regulations.gov and via e-mail at a-and-r-docket@epa.gov

Attention: Docket ID No. EPA-HQ-OAR-2013-0711

Re: Comments on Data Requirements Rule for the 1-Hour Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard (NAAQS), Proposed Rule, 79 Fed.Reg. 27446 (May 13, 2014)

To whom it may concern:

These comments, submitted on behalf of the Missouri Chapter of the Sierra Club, address a potential gap in the implementation of the above-referenced proposed Data Requirements Rule (“proposed rule”).

As EPA explains at the outset, the proposed rule seeks “to characterize current air quality in areas with large sources of sulfur dioxide (SO₂) emissions if such areas do not have sufficient air quality monitoring in place to identify maximum 1-hour SO₂ concentrations.” Proposed Rule, 75 Fed. Reg. at 27446 (Summary).

The Preamble references a document in the docket that contains “[a]s a starting point, ... a preliminary list of sources that appear to meet the criteria described in the EPA’s proposed source threshold approach.” Proposed Rule, 75 Fed. Reg. at 27457.¹ We appreciate that the list is described as “preliminary” and “a starting point” for identifying those large sources of SO₂ emissions in areas that lack sufficient monitoring to identify maximum 1-hour SO₂ concentrations attributable to such large sources, and we urge you to expand it as described below.

The preliminary list² currently excludes large sources that would otherwise be on the list but are located in areas designated nonattainment in the initial round of designations.³ One such source is Ameren Missouri’s Rush Island Plant, located in the southeastern corner of the Jefferson

¹ Proposed Data Requirements Rule for the 1-Hour Sulfur Dioxide Primary National Ambient Air Quality Standard (NAAQS): National Emission Inventory (NEI) Data Used to Calculate Numbers of Emissions Sources Covered Under Proposed Emission Threshold Options, authored by Doug Solomon, EPA Office of Air Quality Planning and Standards, Air Quality Assessment Division, dated May 1, 2014 (“EPA Covered Sources Memorandum”).

² Id., Tables 2A and 2B.

³ Id., Tables 3A and 3B.

County, Missouri nonattainment area.⁴ There is some risk that the SO₂ impacts of this large source (over 28,000 tpy emitted during 2011) may not be adequately addressed (if at all) during the nonattainment SIP process. If the source is then not covered under the Data Requirements Rule, its substantial SO₂ impacts could remain unaddressed or inadequately addressed – contrary to the purpose of the proposed rule.

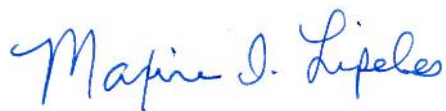
There are at least two scenarios whereby the SO₂ impacts of the Rush Island plant would not be adequately addressed, or addressed at all, notwithstanding the plant's location in the Jefferson County nonattainment area.

First, the Jefferson County nonattainment area was designated based on a monitor sited specifically for a different large source, the Doe Run Herculanum lead smelter. Monitoring performed on behalf of the Sierra Club shows that Rush Island's impacts occur in large areas outside of, as well as inside, the nonattainment area.⁵ There is no assurance, and no reason to assume, that any emissions limits imposed on the Rush Island plant as part of the in-process nonattainment SIP will sufficiently reduce the plant's SO₂ emissions to eliminate all NAAQS exceedances outside of the existing nonattainment area that are attributable to the Rush Island plant.

Second, readings at the Doe Run-oriented monitor have dropped considerably since the Herculanum smelter closed in December 2013. Other sources in the nonattainment area are pressing the Missouri Department of Natural Resources (DNR) to abandon the SIP process. While we believe that such action would be both legally and factually unfounded (and is beyond the scope of this letter), it is conceivable that DNR will fail to prepare a nonattainment SIP for the Jefferson County nonattainment area. Should that occur, then no emissions reductions would be required of the Rush Island plant – even though modeling performed by DNR shows that the Rush Island plant's actual (and allowable) emissions cause SO₂ exceedances well above the NAAQS at locations different from the site of the Doe Run-oriented monitor.

If, as a result of either of these scenarios, the Rush Island plant's substantial SO₂ impacts are not adequately addressed – or not addressed at all – during the pending SIP process, then the plant should be covered by the Data Requirements Rule. On behalf of the Sierra Club's Missouri Chapter, we urge EPA to revise the list of covered sources to include Ameren Missouri's Rush Island plant.

Sincerely yours,



⁴ Air Quality Designations for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard, Final Rule, 78 Fed. Reg. 47191, 47201 (Aug. 5, 2013); Missouri's Revised Sulfur Dioxide (SO₂) Nonattainment Area Recommendations for the 2010 1-Hour SO₂ National Ambient Air Quality Standard, available at <http://www.dnr.mo.gov/env/apcp/docs/complete-SO2-boundary-submittal-4-26-13.pdf>.

⁵ Sierra Club Evaluation of Compliance with 1-hour SO₂ NAAQS for Ameren's Meramec, Labadie, and Rush Island Plants, Jan. 31, 2012 (submitted herewith).

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cc: EPA Region 7, Karl Brooks, Administrator
Missouri Department of Natural Resources, Sara Parker Pauley, Director